IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.511 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Davy Powergas India Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 21ST MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that in computing the disallowance in respect of expenditure which resulted in remuneration benefit or amenities as employees directors provisions of section 40(c) of the Income-tax Act, 1961 and not those of Section 40A(5)(a) thereof would be applicable ? "

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)